

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ARELIOUS RAY REED,

Plaintiff,

v.

Case No. 08-CV-14836

THIRD JUDICIAL CIRCUIT COURT,

Defendant.

ORDER OF SUMMARY DISMISSAL

Before the court is Plaintiff Arelius Ray Reed's *pro se* "Complaint," filed pursuant to 28 U.S.C. § 1915. After careful consideration, the court will dismiss Plaintiff's complaint under § 1915 because Defendant is immune from this action.

Complaints filed *in forma pauperis* are subject to the screening requirements of 28 U.S.C. § 1915(e)(2). *Brown v. Bargery*, 207 F.3d 863, 866 (6th Cir. 2000). Section 1915(e)(2) requires district courts to screen and dismiss complaints that are frivolous, fail to state a claim upon which relief can be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); *McGore v. Wigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997). A complaint is frivolous and subject to *sua sponte* dismissal under § 1915(e) if it lacks an arguable basis in either law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

While Plaintiff neglected to specify a federal statute upon which relief may be granted, the court construes his complaint as an action pursuant to 42 U.S.C. § 1983. Under § 1983, Plaintiff must allege that (1) he was deprived of a right, privilege, or

immunity secured by the federal Constitution or laws of the United States, and (2) the deprivation was caused by a person acting under color of state law. 42 U.S.C. § 1983; *see also Flagg Bros. v. Brooks*, 436 U.S. 149, 155-57 (1978). Plaintiff fails to meet the second requirement because Defendant is not a “person” as described under § 1983. *Foster v. Walsh*, 864 F.2d 416, 418 (6th Cir. 1988) (“[A] court is not a ‘person’ within the meaning of that term as used in § 1983.”) Therefore, the court will dismiss Plaintiff’s complaint and need not address whether Plaintiff satisfies the first requirement of a § 1983 claim. Accordingly,

IT IS ORDERED that Plaintiff’s “Application to Proceed *In Forma Pauperis*” [Dkt. # 2] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff’s complaint [Dkt. #1] is DISMISSED.

Finally, IT IS ORDERED that Plaintiff’s request for “Service of the Summons and Complaint” and “Application for Appointment of Counsel” [Dkt. # 3] are DENIED as MOOT.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 25, 2008

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 25, 2008, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522